is not negligence *per se*. But, taken in connection with other circumstances, rate of speed may be dangerous, and a dangerous rate of speed is negligence. It is for the jury to say whether, under all the circumstances of the case, the act complained of was negligent.

C. D. ORR AND R. E. LITTON v. GOODLOE, TRUSTEE, AND OTHERS. Decided at Wytheville, June 25, 1896.—*Keith*, P. *Absent*, Harrison, J:

1. MISREPRESENTATIONS—*Statements of opinion—Fact—Rescission.* The misrepresentations which will sustain a bill for rescission of a contract must be positive statements of fact, made for the purpose of procuring the contract. They must be material and untrue, and the party to whom made must have relied on them, and been induced by them to enter into the contract. In the case in judgment, the representations that a hotel would be erected, a bridge built, and streets graded, were expression of an existing purpose and not a representation of an existing fact.

HARMAN v. RATLIFF AND OTHERS.—Decided at Wytheville, June 25, 1896.—*Cardwell*, J. *Absent*, Harrison, J:

1. POSSESSION OF LAND—*Uncleared lands—Constructive possession—Actual—Adverse.* The constructive possession of the rightful owner of land yields only to the actual possession of an adverse claimant; but while lands remain uncleared or in a state of nature, they are not susceptible of adverse possession against an older patentee, except by acts of ownership effecting a change in their condition which, from their nature, indicate a notorious claim of title, and to constitute such adverse possession there must be occupancy, cultivation, improvement, or other open, notorious, and habitual acts of ownership.

2. CONFLICTING PATENTS—*Possession of one tract claiming adjacent—Adverse possession.* Where the State has, by conflicting patents, granted uncleared lands, which adjoin the home tract of the junior patentee, the possession by the junior patentee of his home tract claiming possession of the land granted by the conflicting patents, is not extended to the lands thus granted so as to give him adverse possession as against the senior patentee.

F. M. & D. E. CLARKSTON v. VIRGINIA COAL & IRON CO.—Decided at Wytheville, June 25, 1896.—*Riely*, J. *Absent*, Harrison, J:

1. PATENTS—*Calls for natural objects—Courses and distances—Repugnancy.* In a call in a patent which fixes a starting point at a stake on the top of a designated ridge, and continues "thence with the same" a given course and distance, the words "with the same" mean with the top of the ridge, or at the least the line must keep with the ridge. If the course and distance given fails to do this, and in great part leaves the ridge altogether, and it is impossible to give effect to both, the course and distance must yield to the permanent natural boundary, and the line be run with the top of the ridge, in accordance with the general rule, which prefers natural or permanent objects or monuments to courses and distances, when there is repugnancy between the two.